

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOE SILVA,

Petitioner,

v.

UNKNOWN,

Respondent.

No. 2:24-cv-0618 DJC AC P

FINDINGS AND RECOMMENDATIONS

Petitioner is a state prisoner proceeding pro se with a habeas corpus petition filed pursuant to 28 U.S.C. § 2254. On December 16, 2024, respondent filed a motion to dismiss the petition. On February 11, 2025, petitioner was ordered to file an opposition or statement of non-opposition to the pending motion within twenty-one days. ECF No. 21. In the same order, petitioner was informed that failure to file an opposition would result in a recommendation that this action be dismissed without prejudice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). The twenty-one-day period has now expired, and petitioner has not filed a response to the motion to dismiss or otherwise responded to the court's order.

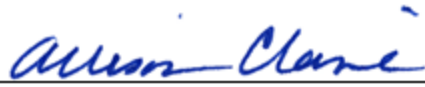
In recommending this action be dismissed for failure to prosecute, the court has considered "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives." Ferdik v.

1 Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (citation omitted). Because this case cannot  
2 move forward without petitioner's participation, the court finds the factors weigh in favor of  
3 dismissal.

4 For the foregoing reasons, IT IS HEREBY RECOMMENDED that this action be  
5 dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b).

6 These findings and recommendations are submitted to the United States District Judge  
7 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
8 after being served with these findings and recommendations, any party may file written  
9 objections with the court and serve a copy on all parties. Such a document should be captioned  
10 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the  
11 objections shall be filed and served within fourteen days after service of the objections. The  
12 parties are advised that failure to file objections within the specified time may waive the right to  
13 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

14 DATED: March 21, 2025

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17 ALLISON CLAIRE  
18 UNITED STATES MAGISTRATE JUDGE  
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